



JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil Gas and Mining

JOHN R. BAZA
Division Director

April 18, 2007

Vern Tharp
Wilshire Consulting Group, LLC
5040 Acoma Street
Denver, CO 80216

Subject: Mining Activity Near Tailing Dike and Notice of Violation No. MC-07-01-03, James B. Mascaro and Sons, Barney Mine, S0490055, Utah County, Utah

Dear Mr. Tharp:

This letter is being written in response to your formal complaint submitted by email April 12, 2007, as well as your letter submitted by fax on April 13, 2007 regarding violation number MC-07-01-03.

With regard to the disturbance that has occurred on the South side of the old Tailings dike, we have reviewed our records and found that there were a couple of operators with active permits in the area at the time (April 2006). Andrew Schick dba Elite Rock was permitted to operate just to the east of the area in question. This operation was later transferred to Wasatch Mountain Excavating, Inc. Timberline Rock Pit, LLC was also permitted to operate about that timeframe, but in an area to the North of the dike.

We did not observe the disturbance you are asking about as it occurred, but our inspector did talk to the operators in the area at the time and also observed the equipment tracks leading to the disturbance. All of this seemed to indicate that the equipment came from the East or from the vicinity of the Elite Rock site. No tracks came from the west or north. We wish we could identify a responsible party for this disturbance, but our evidence is circumstantial and based on hear say.



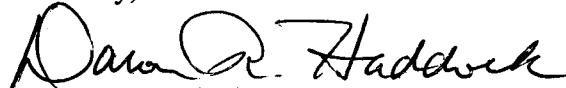
What complicates this situation even more is the recent disturbance that has occurred in this same location. When Lynn Kunzler and I were on site on April 10, 2007 it was clear that excavation had occurred very recently in this area (within the last few weeks). It was clear from the recent tracks leading to and from the area that a track hoe and front-end loader had been in the area and the tracks matched those of Jim Mascaro's equipment and came from the vicinity of the Mascaro operation.

This now brings us to the second part of this letter, which is to talk about NOV MC-07-01-03. It is clear from our inspections that "mining" has occurred outside of a permitted area. Now I understand that we may have a difference of opinion as to what constitutes mining, but rather than argue the finer points of the law or rules we are interested in the proposal you have proffered in your April 12, 2007 letter. Given the information you have provided, we would be willing to set the violation in abeyance for a period of 90 days in order for you to submit a large mine Notice of Intent (NOI) which would ensure that the totality of the activity would be under permit. If a complete NOI is filed within this timeframe, we will vacate the violation, which will be the same as if the violation were never written. We recognize that this is a shorter timeframe than you indicated in your letter, but we feel it is doable and we have some constraints as to how long a violation can be extended.

Should you choose not to complete the NOI, the violation will be activated and the abatement requirements will still apply. Of course you will have all of the appeal rights associated with any violation.

We hope this is a mutually agreeable solution to this issue and look forward to working with you on resolving all of our concerns.

Sincerely,



Daron R. Haddock
Compliance Officer
Minerals Regulatory Program

DRH:pb

cc: James Mascaro

P:\GROUPS\MINERALS\WP\M049-Utah\S0490055-BarneyMine\final\Tharpltr04172007.doc